

REMARKS

Provisional Double Patenting Rejection

Reconsideration of the double patenting rejection is respectfully requested. U.S. Patent Application 10/475,157 has issued into U.S. Patent No. 7,514,039 since issuance of the Office Action. A copy of the issued patent is enclosed.

The claims of the subject application are patentably distinct from the claims of the U.S. Patent No. 7,514,039. In the rejection, the Examiner states that the claims of the present application and the claims of U.S. Patent No. 7,514,039 are directed to system for detecting a target substance using a *pyroelectric film* in an isolated environment. The current pending claims of the subject application do not include such a limitation. Reconsideration of the double patenting rejection is respectfully requested.

Claim Rejections under 35 U.S.C. §102

In the Office Action, the Examiner has rejected claims 1 and 6-7 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,976,881 issued to Klinger (hereinafter "Klingner") or U.S. Patent Application Publication 2002/0011934 (hereinafter "Cacioli").

Applicants traverse this rejection. Cacioli describes a glove comprising that includes an acoustic alarm device similar to wrist watch alarm. The glove may also comprise a communication system that may wirelessly communicate to a remote system to indicate the presence of an alarm situation as described in Cacioli. Klinger describes a detector pad that may be placed on the inner surface of a glove or the hand of a wearer. The detector pad changes color and will be apparent to the wearer in the case of a transparent or translucent glove while the glove is on, but will only be apparent to the wearer of an opaque glove after the glove is removed. See Klinger column 4, lines 10 to 14, for example.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 of the Subject Application is directed to a system for detecting a breach of an exposure protection device by an amount of a target substance, said system comprising, among other things, a protective covering comprising at least one opening that is hermetically sealed by a substantially transparent window. Certainly, neither Cacioli nor Klinger describe or suggests a window that is a transparent bubble container (Claim 6) or a bubble container that protrudes outward from said exposure protection device (Claim 7). Further, independent claim 17 is directed to a system for detecting a breach of properties of protective equipment comprising, among other things, a protective covering comprising a first material and an a transparent window consisting of a second material that is more transparent than the first material. Independent Claim 35 is directed to a system for detecting a breach of an exposure

protection device by an amount of a target substance comprising, among other things, an opaque protective covering comprising at least one opening that is hermetically sealed by a substantially transparent window. An finally, independent claim 43 is directed to a system for detecting a breach of an exposure protection device by an amount of a target substance comprising, among other things, a protective covering comprising at least one opening that is hermetically sealed by a substantially transparent window, wherein the transparent window is more transparent than the protective covering.

Neither Cacioli nor Klingner disclose or suggest these structures. Cacioli relies on an acoustic alarm indicating breach and Klingner relies upon visual recognition of the breach through a transparent or translucent protective covering itself.

The protective glove of Cacioli includes a microchip and a sensor. The microchip senses changes in signals from the sensor and produces an alarm or wireless signal to alert a person of the breach. There is no opening in the glove of Cacioli that is hermetically sealed by a substantially transparent window.

Klingner is similar. Though the glove of Klingner includes a pad carrying a reagent which is responsive to the contaminant for producing a color change, the glove of Klingner does not include an opening in the glove that is hermetically sealed by a substantially transparent window. If the glove of Klingner is transparent or translucent, then the color change indicating breach will be apparent to a user. However, if the glove of Klingner is opaque, the user will not know of the breach until the glove is removed. See Klingner, column 4, lines 10-15. There is no suggestion or motivation stated in the prior art or in the general knowledge of one skilled in the art to make an opening in the protective covering and attempt to hermetically seal the opening with a window. There is no objective reason or motivation for one skilled in the art to intentionally create an opening in a protective covering. This is why so many breach detection devices in the prior art rely on an electronic signal for indication of a breach of opaque coverings.

In addition, Claims 1, 6-7 and 35-42 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,514,039 (hereinafter "Loomis"). Loomis also does not anticipate the claims of the subject application for the same reasons as provided above. In regards to Loomis, Loomis discloses a System and Method for Detection of a Target Substance and does not intend to provide a protective covering or detect a breach. The system of Loomis merely detects a substance in a local environment. Loomis does not describe a system for detecting breach of an exposure protection device as claimed.

Applicants further submit that the claims of the Subject Applications are not obvious based upon the disclosure of any of the cited references. The Supreme Court has enunciated the four factual inquiries required to determine obviousness: (A) determining the scope and contents of the prior art; (B) ascertaining the differences between prior art and the claims in issue; (C) resolving the level of ordinary skill in the pertinent art; and (D) evaluating

evidence of secondary considerations. The Supreme Court reaffirmed and relied upon the Graham four pronged test in its consideration and determination of obviousness in the fact situations presented in *KSR v. Teleflex*, 127 S. Ct. 1727 (2007); *Sankraida v. Ag Pro, Inc.*, 425 U.S. 273, 189 U.S.P.Q. 449, *reh'g denied*, 426 U.S. 955 (1976); and *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57, 163 U.S.P.Q. 673 (1969). Applicants further submit that there is no teaching, suggestion, motivation or other objective evidence in the cited references to modify the disclosed systems to include all the limitations of claims of the subject application. Reconsideration of the rejections under §102 is respectfully requested with consideration of the remarks given herein.

New Claims

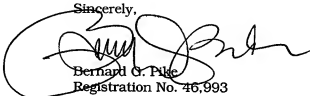
New claim 43 has been added. Applicants presented a claim including the limitations of new claim 43 to the examiner in our telephonic interview of January 11, 2010. The Examiner stated that such a claim would not be anticipated by the prior art of record since Klinger required a transparent glove in which the material is consistent throughout the glove. No new matter has been added through addition of these claims as the subject matter was included in the specification as filed.

CONCLUSIONS

Applicants respectfully request consideration of the currently claims pending in the subject application and issuance of a Notice of Allowability. Should the Examiner have any remaining concerns, he is requested to contact the undersigned at the telephone number given below so that the concerns may be resolved without issuance of an additional Office Action.

No fees beyond the extension of time fees are believed due for this *Response to Office Communication*. Nonetheless, authorization to charge deposit account No. 20-1507 is given herein should fees be due.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernard G. Pike", is written over the typed name and registration number.

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